

Decision 03-04-021 April 3, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of ACC
Telecommunications, LLC (U-6569-C) For
Withdrawal of Service in Los Angeles, Orange
County and San Diego, California.

Application 02-11-037
(Filed November 20, 2002)

**OPINION GRANTING THE REQUEST OF ACC TELECOMMUNICATIONS,
LLC TO WITHDRAW CERTAIN FACILITIES-BASED AND RESOLD
TELECOMMUNICATIONS SERVICES IN LOS ANGELES,
ORANGE COUNTY AND SAN DIEGO WHILE
RETAINING ITS AUTHORITY**

Summary

By this decision, the Commission grants the unopposed request of ACC Telecommunications, L.L.C.¹ (ACC) to withdraw facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in Los Angeles, Orange County, and San Diego, California. ACC shall retain its authorization to provide facilities-based and resold local exchange and interexchange telecommunications services throughout California, and shall advise the Commission, if it intends to resume all or any of its authorized telecommunications services or pursue and enter into a feasible business opportunity within six months of the mailing date of this order. Absent such notification, its authorization will be revoked. This proceeding is closed.

¹ Formally titled ACC Telecommunications, L.L.C. d/b/a Adelphia Business Solutions.

Background

ACC's principal business address is One North Main Street, Coudersport, Pennsylvania. This Commission authorized it to provide facilities-based and resold local exchange and interexchange telecommunications services in Decision (D.) 01-08-041.² Currently, ACC provides facilities-based and resold local exchange, interexchange and dedicated telecommunications services to approximately 106 business customers,³ and approximately 16 dedicated customers in Los Angeles and Orange County combined. ACC has no customers in San Diego, and does not provide residential service anywhere in California.

ACC requests authority to discontinue providing facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in the above-listed three California markets. On June 25, 2002, it filed for protection under Chapter 11 of the U.S. Bankruptcy Code.⁴ ACC contends that it cannot sell its Los Angeles, Orange County and San Diego operations, and seeks to commence an orderly discontinuance of operations therein to avoid unnecessary cash drain and undue delay. Since ACC would like to re-enter the California telecommunications market if certain business opportunities arise, it asks to retain its authority to provide facilities-based and

² Issued August 23, 2001, the Commission permitted Adelphia Business Solutions Operations, Inc. to transfer certain telecommunications facilities and other assets to ACC Operations, Inc. and ultimately to ACC.

³ About 100 lines.

⁴ *See* Adelphia Communications Corporation, et al., Case No. 02-41729 (REG) (Bankr. S.D. N.Y., June 25, 2002). ACC is now ACC Telecommunications, L.L.C., Debtor-in Possession pursuant to a *pro forma* assignment.

resold local exchange and interexchange telecommunications services throughout the state.

Notice of the filing of the application appeared in the Commission's Daily Calendar on December 6, 2002. In Resolution ALJ 176-3102 dated December 5, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest or response has been received.

Discussion

We authorize ACC to withdraw from providing facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in the State of California. Under General Order (GO) 96-A Section XIV, a carrier must obtain approval from the Commission before withdrawing services. D.97-06-096 imposes notice requirements on carriers seeking to withdraw service. ACC has demonstrated that it has satisfied these requirements through its written communications on October 30, 2002,⁵ with its customers.

ACC requests that its customer base be transferred to the customers' local carrier of choice, and that it be relieved of responsibility for all costs and expenses related to the transition of ACC's California customers to alternate providers since it is operating at a loss. To underscore its financial distress, ACC notes that it is in bankruptcy proceedings; however, it has not submitted any additional documents supporting the request for relief. We approve the transfer

⁵ Some of ACC's affected customers received notice of the planned discontinuance of service, subject to California Public Utilities Commission approval, by first-class mail sent on November 6, 2002. ACC's letter advised customers that an application to discontinue service had also been filed with the Federal Communications Commission.

of customers to their carriers of choice, but we will not absolve ACC of its responsibility to work diligently with its remaining customers to affect a smooth transition to another provider.

We will leave ACC's certificate of public convenience and necessity (CPCN) in effect for six months. While ACC has indicated a desire to pursue other business opportunities with its existing authorization, it has cited no specific prospects or timeframe at present. We are reluctant to leave ACC's authorization in abeyance indefinitely; therefore, ACC should advise this Commission as soon as possible if it intends to resume providing all or any of its authorized telecommunications services or pursues and enters into a feasible business opportunity.

ACC states that it does not have any outstanding regulatory surcharges owed to this Commission. It has also submitted an Advice Letter revising its California Tariff. Consequently, there is no reason to delay granting the request for authority to withdraw the provided services. Public hearing and altering the preliminary determinations made in Resolution ALJ 176-3102 are not necessary.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Jacqueline A. Reed is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. This Commission authorized ACC to provide facilities-based and resold local exchange and interexchange telecommunications services in California in 2001.

2. ACC seeks authority to withdraw its offering and provision of facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in Los Angeles, Orange County, and San Diego, to avoid unnecessary cash drain and undue delay.

3. ACC has approximately 106 business customers and approximately 16 dedicated customers in Los Angeles and Orange County combined, that it notified in writing of its request to withdraw service.

4. ACC did not cite any imminent prospective business opportunities or a potential timeframe for when one might arise.

5. Applicant's customer notices: (1) were in writing; (2) advised customers at least 30 days prior to the service termination date; (3) directly explained the need for customers to select an alternative provider of their choice; and (4) provided a toll-free number for customer questions.

6. No protest of the application has been filed.

Conclusions of Law

1. Under GO 96-A, Commission approval is required before a carrier may withdraw from the provision of public utility service.

2. ACC should be authorized to withdraw from the provision of facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in Los Angeles, Orange County, and San Diego, California.

3. ACC should retain its CPCN and U-number for six months since it would like to re-enter the California telecommunications market; however, ACC reported no imminent business prospects or suggested a timeframe and its authorization cannot be held in abeyance indefinitely.

4. Since the matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. The Application of ACC Telecommunications, L.L.C. (ACC) to immediately withdraw its offering and provision of facilities-based and resold local exchange and interexchange telecommunications services, and dedicated services in Los Angeles, Orange County, and San Diego, California, is granted.

2. Within six months from the mailing date of this order, if ACC intends to resume providing all or any of the telecommunications services authorized under its certificate of public convenience and necessity (CPCN) or pursues and enters into a feasible business opportunity related to its CPCN, it shall immediately inform the Commission and, if appropriate, shall make the requisite filing for transfer of utility assets under Section 851 of the California Public Utilities Code.

3. If ACC does not resume providing all or any of its authorized telecommunications services or pursue and enter into a feasible business opportunity within six months from the mailing date of this order, its CPCN and its U-number shall be revoked.

4. This proceeding is closed.

This order is effective today.

Dated April 3, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners